

REMARKS

As required in the Interview Summary mailed February 6, 2009, Applicants have the following statement of the substance of the interview: (i) the Examiner discussed the difficulty of searching the claims in their original form and Applicants explained the subject matter being claimed as well as limitations on its scope, (ii) it was agreed that the requirement for election of inventions (i.e., insulin sensitizer and peptide fraction) would be changed to election of species, and (iii) claims would be amended prior to the next Office Action.

Applicants elect with traverse Group I (i.e., claims directed to a composition) for examination on the merits. With regard to the further requirement for election of a single insulin sensitizer and a single peptide fraction species, the “chromium” and “a protein hydrolysate containing a high proportion of small peptides, i.e., peptides with a molecular weight below 500Da” are again elected. Support for the elections can be found at page 10, line 24, and page 8, lines 27-28, respectively, of the specification. Claims 1-3, 5-9, 11-12, 14-21 and 23-26 read on the elected species of insulin sensitizer and/or peptide fraction.

Traversal is based on the lack of a serious burden to search and examine the elected claims of Group I and the nonelected claims of Groups II-IV in this application. But if the Examiner is not persuaded to withdraw the restriction requirement between compositions and methods, Applicants request rejoinder of the method claims upon an indication that a composition claim is allowable.

Claims 4, 10, 13 and 22 are canceled because their limitations are not required for patentability of the claimed composition. Amendment of claims 2, 6 and 8 to correct an informality (i.e., a missing hyphen) does not affect their scope. Claim 15 is amended to facilitate rejoinder. New claims 24-26 are added to protect embodiments of the invention in which a composition comprised of a peptide fraction of a protein hydrolysate (with or without insulin sensitizer) is used to reduce insulin resistance, delay development of diabetes, treat type 2 diabetes, or a combination thereof. Upon rejoinder, claims 24-26 should be searched and examined in this application because they are generic to claims 14-18 and 23.

HEYDEN et al. – Appln. No. 10/525,959

Applicants submit that the claims are in condition for allowance and earnestly solicit an early Notice to that effect. The Examiner is invited to contact the undersigned if any further information is required.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: _____

Gary R. Tanigawa

Reg. No. 43,180

901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100